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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,690	09/26/2001	Daniel Sutor		6757

2292 7590 06/13/2003

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EXAMINER
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MICHENER, JENNIFER KOLB

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 06/13/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/890,690

Applicant(s)

SUTTOR ET AL.

Examiner

Jennifer Kolb Michener

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-17.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

**ADVISORY ACTION**

The request for reconsideration has been considered but does NOT place the application in condition for allowance.

***Claim Rejections - 35 USC § 112***

1. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner maintains the rejection.

Claim 3 was previously amended to substitute the phrase "transition metals" for the word "subgroups". This language appears to be new matter for the reasons outlined in the previous office action.

***Claim Rejections - 35 USC § 102***

2. Claims 1-8, 10-11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadoun et al.

Examiner maintains the rejection.

***Claim Rejections - 35 USC § 103***

3. Claims 9, 12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sadoun.

Examiner maintains the rejection.

4. Claims 1-6 and 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler in view of Sadoun.

Examiner maintains the rejection.

***Response to Arguments***

5. Applicant's arguments filed 5/19/2003 have been fully considered but they are not persuasive.

Regarding the new matter rejection, Applicant argues that the word "subgroup" is a translation of the German word "Nebengruppe" and that "Nebengruppenelement" and "Ubergangsmetalle" correspond to the English term "transition metals". Therefore, it is argued that "subgroup" must be synonymous with "transition metals".

Examiner disagrees.

"Nebengruppe" is a different word than "Nebengruppenelement". Examiner agrees with Applicant's translation of the word "Nebengruppe" as "subgroup" based on the first reference provided. However, the second reference provided is in German therefore it is not clear what this reference teaches. Even if Examiner assumes that the reference does teach that "Nebengruppenelement" means "transition metals", there is no direct

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correlation to the word Nebengruppe, meaning "subgroup". It appears that transition metal or "Nebengruppenelement" is a certain type of "subgroup" or "Nebengruppe", but not a synonym. Therefore, Examiner maintains that the term "transition metals" does not have basis in Applicant's disclosure of "subgroups".

Applicant further cites Hawley's for proof that the term "major group" means non-transition metals and thus "subgroup", as a result, must describe the transition elements.

Examiner disagrees. The term "subgroup" as discussed above, is a generic term, encompassing more than just one group. Merely because non-transition elements are called "major group", does not require transition metals to be known as "subgroup". It is quite possible for there to exist subgroups within the major group that are not transition metals at all.

With regard to the prior art, Applicant argues that the term "pre-sintered state" does not refer to a method step of pre-sintering, but refers to a definite physical state in which a shaped green body is already formed. Applicant also argues that in this pre-sintered state, in which the binder is evaporated by pre-sintering and the particles have begun to bake, there is a higher porosity than the green body.

This argument is confusing to Examiner. On page 4, Applicant appears to argue that Examiner is incorrect in considering "pre sintered state" to be a method step. But then on page 5 Applicant appears to say that by "pre-sintered state", Applicant means that

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the object has been pre-sintered in an active step of evaporating binder and beginning to bake the particles to increase porosity. Examiner notes that there is no active step of pre-sintering within the specification to provide basis for this.

As the claim currently reads, it requires only "coloring the ... ceramics in porous or absorbent pre-sintered state". Pre-sintered could mean either that it's been pre-sintered or that it's coated prior to sintering. Since there was no active step of pre-sintering in the disclosure, Examiner interpreted the claims in light of the specification to require coloring prior to sintering.

Furthermore, Examiner wishes to note that since the claim reads "coloring the ... ceramics in porous or absorbent pre-sintered state", Examiner has interpreted this claim to require coloring of the ceramic in *either* the porous state or the absorbent pre-sintered state. This claim does not require the pre-sintered limitation when the porosity limitation is met.

Regarding the Richersin reference, Examiner disagrees that "bisque-fired" teaches a definition for "pre-sintering".

Regarding the EPO reference cited for defining "pre-sinter", Examiner notes that the reference only teaches that a ceramic can be pre-sintered and that the final sintering step occurs when the ceramic is already shaped. It does not define what a "pre-sintered state" is.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kolb Michener whose telephone number is 703-306-5462. The Examiner can normally be reached on Monday through Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on 703-308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jennifer Kolb Michener  
June 10, 2003



SHRIVE P. BECK  
SUPERVISORY PATENT EXAMINER  
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